IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4326 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TIKAMCHAND D KHUSLANI - Petitioner(s)

Versus

STATE OF GUJARAT - Respondent(s)

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Appearance :

MR BR GUPTA for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/11/2005

ORAL JUDGMENT

1.This matter is called out twice today. Shri B.R.Gupta, learned advocate appearing on behalf of the petitioner is absent on both the occasions. Under the circumstances, this Court has no other alternative but to decide and dispose of the present Special Civil

Application on merits ex-parte.

2. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the Government Resolution dated 5.3.2001 issued by the Ministry of Commerce and Mines Department, State of Gujarat, for giving some benefits to the industrial establishments which came to be affected due to earthquake. It appears from the pleadings and it is the contention on behalf of the petitioner that the aforesaid Government Resolution dated 5.3.2001 came to be issued for the purpose of providing relief/assistance to the earthquake affected industrial establishments in the State and the Government has decided to provide cash assistance to the tune of 60% of new capital investment that may be incurred on repairing and replenishment of building, plant and machineries of loss affected industrial units subject to maximum limit of Rs.60 Lacs. It is the contention on behalf of the petitioner that the same should have been given on the basis of the actual loss and there is no classification while applying maximum limit of Rs.60 Lacs. It is further submitted on behalf of the petitioner that even if an establishment could

have suffered a loss of Rs.1 Crore in that case also, the relief would be granted upto a maximum limit of Rs.60 Lacs which is nothing but non-application of mind and relevant considerations are not applied.

3. An affidavit-in-reply is filed on behalf of the respondents and it is submitted that the damage certificate issued by the District Industrial Centre, Bhuj, to the petitioner is only indicating the damage caused on the basis of the primary survey, whereas rehabilitation package is related to actual expenses to be incurred by the unit for rehabilitation. It is also further submitted in the affidavit-in-reply that it is the policy decision which is reflecting in the aforesaid Government Resolution dated 5.3.2001 and in fact, no fundamental rights of the petitioner are being violated on any counts and therefore, it is requested to dismiss the present Special Civil Application.

4. It is required to be noted that by the aforesaid Government Resolution, the State Government has come out with the policy of giving cash subsidy upto a maximum limit of Rs. 60 Lacs. It appears from the affidavit-in-reply that before declaring the policy,

the Government held several meetings with the chamber of Commerce and Industries Associations etc. at various level of Industries Commissioner, Secretary (Industries) and also at the level of Minister of Industries keeping in mind the feelings and suggestions made by them, no Associations or Chambers of Commerce has represented for the demand which the petitioner has made. Over and above the cash subsidy an interest subsidy benefits, R.B.I. has also rescheduled outstanding loans of the industrial units. As stated above, the Government has declared 60% subsidy on expenditure made by the affected unit subject to the ceiling limit of Rs.60 Lacs to control the Government liability. The aforesaid Government Resolution of the benefit is within the realm of policy decision taken by the State Government and no fundamental rights of the petitioner are being violated. It cannot be said that the fixing of the ceiling limit of Rs. 60 Lacs is in any way arbitrary which requires to be quashed and set aside by this Court.

5. For the reasons stated above and considering the affidavit-in-reply, there is no substance in the present Special Civil Application and the same is

required to be dismissed and is, accordingly, dismissed. Rule is discharged.

(M.R.SHAH, J.)

kdc.